

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

RICHARD W. PETRARCA,

Plaintiff,

v.

DR. ARANAS, *et al.*,

Defendants.

Case No. 2:15 -cv-01231-RFB-CWH

ORDER

I. DISCUSSION

On June 29, 2015, Plaintiff, then a prisoner in the custody of the Nevada Department of Corrections (“NDOC”), initiated this prisoner civil rights action pursuant to 42 U.S.C. § 1983. (ECF No. 1-1). On January 6, 2016, this Court issued a screening order, allowing some of Plaintiff’s claims to proceed and dismissing others with leave to amend. (ECF No. 14). On June 2, 2016, Plaintiff filed an amended complaint. (ECF No. 26). On June 20, 2016, Plaintiff died at Valley Hospital Medical Center.¹ On July 13, 2016, Plaintiff’s counsel filed a “Notice of Death of Plaintiff.” (ECF No. 17). Accordingly, the Court takes judicial notice of Plaintiff’s death under Fed. R. Evid. 201.

Pursuant to Federal Rule of Civil Procedure 25(a)(1), “[i]f a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedents’ successor or representative. If the motion is not made within ninety (90) days after service of a statement noting death,

¹

See Jackson, Raven, *Inmate dies at Valley Hospital in Las Vegas*, Las Vegas Review-Journal, June 21, 2016, <http://www.reviewjournal.com/news/las-vegas/inmate-dies-valley-hospital-las-vegas>.

1 the action by or against the decedent must be dismissed.” Fed. R. Civ. P. 25(a)(1). As
2 such, if there is no motion for substitution within ninety (90) days of the date of this order,
3 the Court will dismiss the case.

4 **II. CONCLUSION**

5 For the foregoing reasons, IT IS ORDERED that the Court will dismiss the case in
6 ninety (90) days if there is no motion to substitute filed pursuant to Federal Rule of Civil
7 Procedure 25(a)(1).

8 IT IS FURTHER ORDERED that the application to proceed *in forma pauperis* (ECF
9 No. 1) is denied at moot.

10
11 DATED: This 22nd day of August, 2016.

12
13 

14 _____
15 Richard F. Boulware, II
16 United States District Judge
17
18
19
20
21
22
23
24
25
26
27
28